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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,756	03/22/2004	Dean Jensen		1242

7590 01/09/2007
Dean Jensen
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Mission Viejo, CA 92691

EXAMINER

CLINE, SALLY COLSON

ART UNIT	PAPER NUMBER
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3765

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/805,756	JENSEN, DEAN	
	Examiner	Art Unit	
	Sally Colson Cline	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20040610</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the button and buttonhole and snaps (claim 10) and tacky material (claim 3) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: "controller" to –controller.—(pp 3); "sown" to –sewn—(pp 11); "sowing" to –sewing—(pp 33, 36, 38).

Appropriate correction is required.

3. The use of the trademarks XBOX, PLAYSTATION, GAMECUBE, and VELCRO has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner that might adversely affect their validity as trademarks.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "neoprene" (claim 6); "neoprene material is... 1/8" thick" (claim 7).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 5, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Weaver (USPN 772,197).

As to claim 1, Weaver discloses a protector (F) with an attachment mechanism (c), an upper layer (f) attached to the attachment mechanism, a lower layer (f) connected to the first layer at the first distal end (figs 1, 2, and 4) and connected to the second distal end with the attachment mechanism to create an opening that is **capable** of receiving a thumb.

As to claim 2, Weaver discloses the edges of the layers define elongated apertures (fig 1) for aerating moisture.

As to claim 5, Weaver discloses the layers are stretchable material (col 1 line 11).

As to claim 8, Weaver discloses the attachment mechanism maintains the layers in a closed position around the appendage (fig 1).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver in view of Calvert (USPN 6,409,059).

As to claims 3-4, Weaver discloses the invention substantially as claimed, but does not expressly disclose a contact portion of tacky material. Calvert teaches a similar invention, including a contact portion (14) of tacky material. Calvert teaches that the portion is releasable (col 3 line 65). Because finger coverings often inhibit tactile

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feel and the wearer's ability to grip an object, finger coverings are often provided with additional surfaces with higher coefficients of friction so that the wearer may grip objects with greater ease. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the invention of Weaver with the tacky material of Calvert for the purpose of providing a non-slip and non-abrading contact with an object (col 4 line 1-8). With regard to claim 4, the pad of Calvert is capable of being cleaned and is capable of being removed. Note that claim 4 does not recite any structure that defines over the prior art or any structure that further limits the claim from which it depends.

9. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver in view of Earl (USPN 6,101,628).

As to claims 6-7, Weaver discloses the invention substantially as claimed, including stretchable material, but does not expressly disclose neoprene. Earl teaches a similar invention, including neoprene layers approximately 1/8" thick (col 5 line 21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the material of Weaver with the neoprene of Earl for the purpose of providing a material that is stretchable (col 5 line 19).

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver.

As to claim 9, Weaver discloses the invention substantially as claimed, but does not expressly disclose the opening is less than a diameter of a thumb. Weaver does disclose the material is elastic, and it is well known in the art to size elastic so that it is in a stretched position when in place so that it securely encircles an appendage. It would

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have been obvious to one of ordinary skill in the art at the time the invention was made to have sized the opening of Weaver to be smaller than the diameter of the thumb for the purpose of providing a snug fit around the thumb of the wearer.

11. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver in view of Sansotta (USPN 1,306,442).

As to claim 10, Weaver discloses the invention substantially as claimed, including the attachment mechanism is lacing, but does not expressly disclose that the attachment mechanism is a buckle. Sansotta teaches a similar invention, including a buckle (3). It is well known in the art that various types of fastening mechanisms are functionally equivalent. Hook and loop, button and buttonhole, lacing, snaps, and buckles are a few examples. These fasteners may be used interchangeably depending upon the desired aesthetic effect. Further, the specification does not give an indication of why the buckle fastener would be desirable over another fastener type.

As to claim 11, Weaver discloses the invention substantially as claimed, but does not expressly disclose a first and second strap portion. Sansotta teaches a similar invention, including first (2) and second (5) strap portions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the attachment mechanism of Weaver with the straps of Sansotta for the purpose of providing a secure fit for appendages of different sizes (p 1 line 92-99).

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Allowable Subject Matter

12. Claims 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

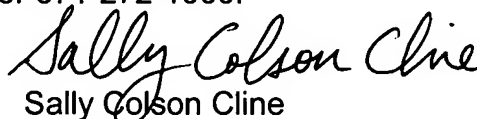
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tueckmantel (USPN 1,066,556); Welsh (USPN 2,389,831); Beatty (USPN 2,461,872); Krannak (USPN 2,474,535); Loebeck (USPN 3,348,541); Iriyama et al. (USPN 4,694,508); Neitlich (USPN 5,577,521); Wanzenried (USPN 6,243,868); McDevitt et al. (USAN 2002/0152538); Schukraft (USAN 200/0166297); Gunnarsson (USAN 2005/0251942); Morris (USAN 2006/0282937); Cain (USPN 6,012,165); Wunderlich-Kehm (USPN 5,517,692); Bourne (USPN 2,847,005); Huettlinger (USPN 6,557,853); McCormack (USPN 2,415,957); Janevski (USPN 5,232,436); McGinnis (USPN 2,357,413); Koppe (USPN 2,057,722); Cooper et al. (GB 2,370,215); Mills (GB 2,39,673).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sally Colson Cline whose telephone number is 571-272-6731. The examiner can normally be reached on 830AM - 5PM EST, M - F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Sally Colson Cline
Examiner
Art Unit 3765

SCC



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